OOI CHEE TIONG v. PP

HIGH COURT MALAYA, ALOR SETAR
HASHIM HAMZAH J
[CRIMINAL APPEAL NO: 44-17-09-2015]
26 NOVEMBER 2015

CRIMINAL PROCEDURE: *Bail – Unbailable offence – Granting of – Security offences – Application by accused – Discretion of court to grant bail – Security Offences (Special Measures) Act 2012, s. 13 – Whether applicant fell within category of persons stated under s. 13(2) – Whether Public Prosecutor applied for accused to be attached with electronic monitoring device – Whether a pre-requisite – Whether applicant sick and infirm – Whether application ought to be allowed – Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007, s. 26J*

STATUTORY INTERPRETATION: *Aids to construction – Hansard – Security Offences (Special Measures) Act 2012, s. 13 – Whether provision to be read in its ordinary and literal meaning – Whether there was ambiguity or obscurity in interpreting provision – Whether reference ought to be made to Hansard*

The accused ('the applicant') was charged under s. 26J of the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007. *Vide* s. 13(2)(c) of the Security Offences (Special Measures) Act 2012 ('the Act'), the applicant applied for bail on the grounds, *inter alia,* that he was 61 years old and sick. In objecting to the said application, the Deputy Public Prosecutor ('DPP') submitted that the court did not have the discretion to grant bail without any application for bail by the DPP under s. 13(2) of the Act. Among the issues that arose for consideration were (i) whether the court had discretion to grant bail under s. 13 of the Act; and (ii) whether the applicant fell under the category of sick and infirm person under s. 13(2)(c) of the Act.

Held (dismissing application):

(1) The wordings of the provision in s. 13 of the Act are clear and unambiguous. Reference to the Hansard can only be done in cases where there is ambiguity or obscurity in the interpretation of the said provision. In the absence of any ambiguity or obscurity, the said provision must be read in its ordinary and literal meaning. (paras 12, 13, 15 & 17)

(2) Section 13(1) of the Act provides that bail shall not be granted to a person who has been charged with a security offence. This denotes that all security offences are unbailable. Section 13(2), however, is a proviso to s. 13(1) due to the term 'notwithstanding subsection (1)'. The effect is that a security offence, which was initially unbailable, becomes a non-bailable offence subject to the fulfilment of the requirements under s. 13(2). The applicant had to prove that he fell under any category of persons mentioned under s. 13(2)(a), (b) or (c) of the Act. (para 18)

(3) The application by the Public Prosecutor for the accused to be attached with electronic monitoring device is a pre-requisite before the court can decide whether to grant bail to the accused. This is regardless of who initiated the application for bail, either the accused or the Public Prosecutor. Once such application is made by the Public Prosecutor, the court has the discretion to either refuse or allow bail with or without the order for the attachment of the electronic monitoring device. On the facts, since the DPP objected to this application and did not apply for the attachment of the electronic monitoring device on the accused, the court was therefore bound by the clear and strict provision of the law. The provision must be given its ordinary meaning even though it may seem immoral or unjust. On this ground alone, the applicant's application ought to be dismissed. (paras 25, 26 & 28)

(4) There was no evidence produced in support of the applicant's averment that he was sick and infirm except for his age. Therefore, the applicant failed to prove that he fell under the category of persons mentioned in s. 13(2) of the Act in order to bring himself within the exception allowed by law. Failure to do so was fatal to the applicant's application. (paras 31 & 32)

Case(s) referred to:

Chor Phaik Har v. Farlim Properties Sdn Bhd [1994] 4 CLJ 285 FC ***(foll)***
Harding v. Wealands [2006] UKHL 32 ***(refd)***
Hari Bhadur Ghale v. PP [2012] 7 CLJ 789 FC ***(refd)***
Manickam & Ors v. PP [1982] CLJ 162; [1982] CLJ (Rep) 552 HC ***(refd)***
Massey & Another v. Boulden & Another [2003] 2 All ER 87 ***(refd)***
Pepper (Inspector of Taxes) v. Hart [1992] UKHL 3 ***(refd)***
PP lwn. Lee Ngan Chea [2015] 6 CLJ 117 HC ***(refd)***
PP v. Sihabduin Hj Salleh & Anor [1981] CLJ 39; [1981] CLJ (Rep) 82 FC ***(refd)***
Regina v. Secretary of State for the Environment, Transport and the Regions, Ex parte Spath Holme Ltd [2001] 2 WLR 15 ***(refd)***
Soo Shiok Liong v. PP [1993] 2 CLJ 657 HC ***(refd)***
Tan Weng Chiang v. PP [1992] 4 CLJ 2094; [1992] 1 CLJ (Rep) 324 SC ***(refd)***
Zulkifflee Hj Hassan v. PP [1987] 1 LNS 31 HC ***(refd)***

Legislation referred to:

Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007, ss. 3, 26J
Prevention of Crime Act 1959, s. 7A(1)
Security Offences (Special Measures) Act 2012, ss. 3, 13(1), (2)(a), (b), (c)

For the appellant - Ai Cha Ran; M/s Ai Cha Ran & Co
For the prosecution - Norshuhada Mohd Yatim DPP; State Legal Advisor's Office, Kedah

Reported by Kumitha Abd Majid

JUDGMENT

Hashim Hamzah J:

Introduction

[1] This is an application by the applicant for bail under s. 13(2)(c) of the Security Offences (Special Measures) Act 2012 (Act 747) ("SOSMA").

[2] The applicant was charged under s. 26J of the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 (Act 670) ("ATIPSOM").

[3] The charge against the applicant is as follows:

> Bahawa kamu pada 10/5/2015 jam lebih kurang 10.55 malam, di kawasan Pantai Pasir Berdengung, Jalan Padang Mat Sirat, Kuala Muda, Langkawi, di dalam daerah Langkawi, di dalam Negeri Kedah Darul Aman, sebagai pemunya sebuah pengangkut iaitu sebuah vessel nombor pendaftaran PSF 1857 telah terlibat dalam pengangkutan migran yang diseludup seramai (9) orang iaitu:
>
> 1. Tufail (Lelaki) (20 tahun) (Bangladesh)
> 2. Firuz Ahmad (Lelaki) (29 tahun) (Bangladesh)
> 3. Ayub Khan (Lelaki) (22 tahun) (Bangladesh)
> 4. Shah Rukh Khan (Lelaki) (19 tahun) (Bangladesh)
> 5. Hassanuddin (Lelaki) (19 tahun) (Bangladesh)
> 6. Sorual Kamal (Lelaki) (17 tahun) (Bangladesh)
> 7. Shahazan (Lelaki) (24 tahun) (Bangladesh)
> 8. Zainal Abidin (Lelaki) (23 tahun) (Bangladesh)
> 9. Afzorahman (Lelaki) (29 tahun) (Myanmar)
>
> Oleh yang demikian kamu telah melakukan kesalahan di bawah seksyen 26J Akta Anti Pemerdagangan Orang dan Anti Penyeludupan Migran 2007 dan boleh dihukum di bawah Akta yang sama.

[4] In short, in support of his application for bail, the applicant in his affidavit averred that:

(a) He is already 61 years old and is sick; and

(b) He is not the owner of the impugned vessel.

[5] Section 13 of SOSMA provides as follows:

> Section 13. Bail.
>
> (1) Bail shall not be granted to a person who has been charged with a security offence.

A (2) Notwithstanding subsection (1):

(a) a person below the age of eighteen years;

(b) a woman; or

(c) a sick or an infirm person,

B charged with a security offence, other than an offence under Chapter VIA of the Penal Code [Act 574], and the Special Measures Against Terrorism in Foreign Countries Act 2015 [Act 770] may be released on bail subject to an application by the Public Prosecutor that the person be attached with an electronic monitoring device in accordance with the Criminal Procedure Code.

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[6] For the sake of completeness, s. 3 defines "security offences" as "offences specified in the First Schedule". By way of Act A1472 which was in force from 31 December 2014, the First Schedule had been substituted to also include offences under Part IIIA of ATIPSOM. Section 26J of ATIPSOM in which the applicant is currently being charged with is listed under Part IIIA of ATIPSOM.

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Issue 1: Whether The Court Has The Discretion To Grant Bail Under s. 13 Of SOSMA

E **[7]** Learned counsel for the applicant submitted that s. 13(2) of SOSMA does not take away the discretion of the court in granting bail to the applicant. Basically, it was submitted that since the court has the discretion to grant bail under s. 13(2) of SOSMA, the normal approach in granting bail for non-bailable offences as decided in *Soo Shiok Liong v. Pendakwa Raya* [1993] 2 CLJ 657; [1993] 2 MLJ 381, *Zulkifflee Hj Hassan v. Public Prosecutor* F [1987] 1 LNS 31; [1987] 2 MLJ 527 and *Manickam & Ors v. Public Prosecutor* [1982] CLJ 62; [1982] CLJ (Rep) 552; [1982] 1 MLJ 227 is still applicable under this provision.

[8] In reply, the learned Deputy Public Prosecutor ("DPP") relied on the judgment delivered in the recent case of *PP lwn. Lee Ngan Chea* [2015] 6 CLJ G 117 regarding the same issue. It was submitted that this court has no jurisdiction to grant bail without any application for bail by the DPP under s. 13(2) of SOSMA.

[9] In *Lee Ngan Chia*'s case, it can be seen at para. 24 of the judgment as follows:

H

Mahkamah ini **setelah meneliti Hansard** semasa membahaskan rang undang-undang terutamanya fasal 13 (sekarang s. 13), niat Parlimen hanya **membenarkan jaminan dalam keadaan yang dinyatakan** di bawah s. 13(2)(a), (b), (c) Akta itu dan **ianya terpulang kepada Timbalan Pendakwa Raya untuk memohonnya dengan syarat pemasangan peranti pengawasan elektronik**. Mahkamah ini berpendapat dalam keadaan undang-undang yang ada sekarang, mahkamah ini tidak mempunyai budi

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bicara untuk membenarkan permohonan jaminan oleh OKT berdasarkan peruntukan s. 13(2)(c) "seorang yang sakit atau seorang yang uzur" sebagaimana yang cuba dihujahkan oleh peguam OKT yang terpelajar.

(emphasis added)

[10] It was further noted at para. 27 of the judgment as follows:

Kesimpulannya, berdasarkan alasan-alasan yang dihuraikan di atas, *mahkamah ini berpendapat peruntukan di bawah s. 13(2) Akta itu tidak memberikan budi bicara kepada mahkamah ini untuk membenarkan permohonan jaminan atas OKT yang menghadapi 'kesalahan keselamatan'*. Walaupun begitu, mahkamah ini bersetuju OKT termasuk dalam "seseorang yang uzur" berpandukan usianya bagi maksud peruntukan s. 13(2)(c) Akta itu. *Parlimen telah memberi budi bicara kepada TPR dalam hal jaminan sebegini dan tertakluk kepada pematuhan peranti pengawasan elektronik yang ditetapkan dalam KTJ*.

(emphasis added)

[11] After careful consideration of the submissions by both parties, I hereby decide as follows.

[12] Firstly, reference to Hansard can only be done in cases where there is ambiguity or obscurity in the interpretation of the said provision.

[13] In the Federal Court's case of *Chor Phaik Har v. Farlim Properties Sdn Bhd* [1994] 4 CLJ 285, which was also referred to in *Lee Ngan Chia*'s case, Edgar Joseph Jr FCJ (as he then was) made the following observation at p. 299 of the judgment, namely:

Nevertheless, we have arrived at the conclusion that we should follow the recent trend of the cases decided in the United Kingdom, Australia, New Zealand, and Singapore and permit a relaxation of the exclusionary rule by allowing a reference to Hansard as an aid to statutory interpretation *where the enactment is ambiguous or obscure, or which if literally construed might lead to an absurdity and provided always that the statement reported in Hansard was made by a Minister or other promoter of a Bill* ... We hasten to add, however, that when resort to Hansard is permissible, that by itself although meriting serious consideration *cannot be determinative of the issue since it is only available as an aid to interpretation. To hold otherwise, would amount to substituting the words of the Minister or other promoter of the Bill for the words of the statute, and that cannot be the law*.

(emphasis added)

[14] The Federal Court referred to a House of Lords' decision in the case of *Pepper (Inspector of Taxes) v. Hart* [1992] UKHL 3 in holding that Hansard may be used by the court to interpret statutes.

[15] Therefore, in the absence of any ambiguity or obscurity to the said provision, the provision must be read in its ordinary and literal meaning.

[16] In the case of *Hari Bhadur Ghale v. PP* [2012] 7 CLJ 789; [2012] 6 MLJ 597, Richard Malanjum CJ (Sabah and Sarawak) in delivering judgment of the court at pp. 795-796 (CLJ); p. 603 (MLJ) of the judgment succinctly held as follows regarding statutory interpretation, namely:

> [11] In our view, in order to better understand sub-s (2), it is necessary to revert to some basic principles or canons of statutory interpretation.
>
> [12] Firstly, the object of statutory interpretation is to determine what the words of a statutory provision mean. It may be, *inter alia*, either by way of strict literal meaning, ordinary and natural meaning, the golden rule, the purposive approach (mischief rule), the value-based approach or the *ejusdem generis* rule.
>
> [13] Secondly, *where the words are unambiguous, plain and clear they must be given their natural and ordinary meanings. 'It is not for the judges to invent fancied ambiguities as an excuse for failing to give effect to its plain meaning because they themselves consider that the consequences of doing so would be inexpedient or even unjust or immoral'* (see *Public Prosecutor v Sihabduin bin Hj Salleh & Anor* [1980] 2 MLJ 273 : *Tan Weng Chiang v Public Prosecutor* [1992] 2 MLJ 625). Further, it should be borne in mind the '*dictum* that one should not 'twist and outstretch the language beyond its common usage', (see *Cheong Seok Leng v Public Prosecutor* [1988] 2 MLJ 481 (also [1988] SLR 565)).
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> [14] Thirdly, *'that the words used in a section must be given their plain grammatical meaning'*. It is also an important rule that a statute should be construed as a whole. Where the court is dealing with two sub-sections of a section, 'it is necessary that the two sub-sections must be construed as a whole 'each portion throwing light if need be on the rest'. The two sub-sections must be read as parts of an integral whole and as being inter-dependent.' It is not legitimate for the court to rewrite the subsections (emphasis added.) (see *Madanlal Fakirchand Dudhediya v Shree Changdeo Sugar Mills Ltd & Ors* AIR 1962 SC 1543; *NKM Holdings Sdn Bhd v Pan Malaysia Wood Bhd* [1987] 1 MLJ 39).
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> [15] Fourthly, 'that not just a single rule of interpretation should be contemplated, pursued and employed in interpreting any statute to the exclusion of all others; *one should test the said single rule with other rules and general presumptions wherever appropriate'* (see *Kesultanan Pahang v Sathask Realty Sdn Bhd* [1998] 2 MLJ 513).
>
> [16] Fifthly, that in interpreting a penal provision *any doubt therein should be given to the accused person.*
>
> (emphasis added)

[17] Bearing in mind all the above principles and upon careful reading of s. 13 of SOSMA, I find that the wordings of the provision are clear and unambiguous.

[18] I am also of the view that the application of s. 13 of SOSMA is as follows:

(a) Section 13(1) of SOSMA which provides that "bail shall not be granted to a person who has been charged with a security offence" denotes that all security offences are unbailable offences and no bail should be given at all;

(b) Section 13(2) is a proviso to s. 13(1) due to the term "notwithstanding sub-s. (1)" which was used. In short, s. 13(2) is the exception to s. 13(1). The effect is that a security offence, which is initially unbailable, has become a non-bailable offence subject to the fulfilment of the requirements under s. 13(2);

(c) Section 13(2)(a), (b) and (c) provides that a person below 18 years old, or a woman, or a sick or infirm person; charged with security offences other than offences under Chapter VIA of the Penal Code and the Special Measures Against Terrorism in Foreign Countries Act 2015, are covered under the proviso;

(d) It is for the applicant to prove that he or she falls under any category of persons mentioned under s. 13(2)(a), (b) or (c) of SOSMA and not the Public Prosecutor;

(e) Both the accused person and the Public Prosecutor may make an application under this provision and it is to be noted that no right thinking prosecutor would have applied for bail on behalf of the accused person;

(f) If it is found to the satisfaction of the court that the accused person falls under any of the abovementioned category of persons, the court may grant bail to the accused person;

(g) Before the court can exercise its discretion in granting bail to the accused person, there must be prior application by the Public Prosecutor for the accused person to be attached with electronic monitoring device in accordance with the Criminal Procedure Code ("CPC"); and

(h) In the absence of such application, no bail should be allowed. On the other hand, when there is such application by the Public Prosecutor, the court shall exercise its discretion either to refuse bail, or to allow bail with or without the order for the attachment of the electronic monitoring device on the accused person.

[19] It is interesting to note that the provision made reference to the Criminal Procedure Code regarding the application by the DPP for the attachment of electronic monitoring device on the accused person. Up until now, there is no provision in the CPC as regards to electronic monitoring device.

[20] However it can be seen in Criminal Procedure Code (Amendment) (No. 2) Act 2012 (Act A1431) which was in force since 31 July 2012 that there was a proposed amendment to the CPC regarding electronic monitoring

device which can be seen under ss. 7, 8 and 9 of the said amendment Act. Unfortunately, the proposed amendments regarding the electronic monitoring device are not yet in force.

[21] For the sake of discussion, the relevant part of s. 7 of the amendment Act is as follows:

> New section 388A
>
> 7. The Code is amended by inserting after section 388 the following section:
>
> Electronic monitoring requirement for person released on bail
>
> 388A. (1) Where a Court has decided to release a person on bail under section 387 or 388, the Court may, on its own discretion, order for an electronic monitoring device to be attached to the person.
>
> (2) The Court may, with due regard to the nature of the offence and the circumstances of the case as being sufficient to secure the person's attendance at his trial, order for an electronic monitoring device to be attached to the person *in lieu* of the execution of a bond.
>
> (3) The Court shall, before ordering a person to be attached with an electronic monitoring device under subsection (1), give the person and the Public Prosecutor an opportunity to be heard.
>
> (4) The Court shall not make an order for a person to be attached with an electronic monitoring device under subsection (1) if there is a person (other than the person to be monitored) without whose co-operation it will not be practicable to secure the monitoring.
>
> (5) **Notwithstanding subsection (1), the Public Prosecutor may apply to the Court for any person to be so released on bail to be attached with an electronic monitoring device.**
>
> (6) **Where the Public Prosecutor has made an application** under subsection (5), **the Court shall**, with due regard to the nature of the offence and the circumstances of the case, **order for the person to be so attached with an electronic monitoring device** *in lieu* of the execution of a bond.
>
> (emphasis added)

[22] Based on the reading of the provision above, it can be seen that the court shall and must order for the attachment of electronic monitoring device once an application is made by the Public Prosecutor.

[23] This position is also similar in the Prevention of Crime Act 1959 (Revised 1983) (Act 297) ("POCA") where it is provided under s. 7A(1) as follows:

> **Upon application by the Public Prosecutor** under section 7, *the Sessions Court Judge shall order the person to be attached with an electronic monitoring device* for a period as the Sessions Court Judge may determine but which shall not exceed the period of his release as allowed under paragraph 7(1)(b).
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> (emphasis added)

[24] However, SOSMA is silent on this issue. In SOSMA, the court is not obliged to order for the attachment of electronic monitoring device solely upon application by the Public Prosecutor.

[25] Again, upon careful reading of s. 13(2) of SOSMA, I am of the opinion that the application by the Public Prosecutor for the accused to be attached with electronic monitoring device is a pre-requisite before the court can decide whether or not to grant bail to the accused. This is regardless of who initiated the application for bail, either the accused person or the Public Prosecutor.

[26] Once such application is made by the Public Prosecutor, the court now has the discretion of either to refuse bail, or to allow bail with or without the order for the attachment of the electronic monitoring device.

[27] In the present case, since the DPP took the expected path of objecting to this application and not applying for the attachment of electronic monitoring device on the accused, the court is therefore bound by the clear and strict provision of the law. The provision must be given its ordinary meaning even though it may seem to be immoral or unjust. (See *Hari Bhadur Ghale v. PP (supra)*, *Public Prosecutor v. Sihabduin Hj Salleh & Anor* [1981] CLJ 39; [1981] CLJ (Rep) 82; [1980] 2 MLJ 273, and *Tan Weng Chiang v. Public Prosecutor* [1992] 4 CLJ 2094; [1992] 1 CLJ (Rep) 324; [1992] 2 MLJ 625).

[28] As such, on this ground alone, the applicant's application ought to be dismissed.

Issue 2: Whether The Applicant Falls Under The Category Of Sick And Infirm Person Under s. 13(2)(c) Of SOSMA

[29] It was submitted by learned counsel for the applicant that the applicant in the present case is 61 years old and is sick and infirm.

[30] The learned DPP contended that there was no evidence to support the applicant's averment. No medical evidence was ever produced.

[31] After going through the applicant's affidavits and exhibits attached thereto, I found that indeed there was no evidence produced in support of the applicant's averment that he was sick and infirm except for his age.

[32] Therefore, the applicant himself had failed to even prove that he falls under the category of persons mentioned in s. 13(2) of SOSMA so as to bring himself within the exception allowed by law. Failure to do so is fatal to the applicant's application.

Issue 3: Whether The Applicant Is The Owner Of The Impugned Vessel

[33] At this stage I am of the view that this issue does not require consideration since this issue is the crux of the applicant's defence and ought to be decided in a trial proper.

A **Recent Development In The Use Of Hansard In Statutory Interpretation**

[34] On a separate note, since learned counsel raised an issue that the use of Hansard bears no legal significance in statutory interpretation, recent decisions in the United Kingdom have shown that the courts are slowly restricting the application of the principles enunciated in *Pepper (Inspector of Taxes) v. Hart (supra)* regarding the use of Hansard in statutory interpretation.

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[35] In *Harding v. Wealands* [2006] UKHL 32, the House of Lords decided that Hansard may only be used as a confirmatory aid to the correctness of the court's statutory interpretation.

C **[36]** In the UK Court of Appeal's case of *Massey & Another v. Boulden & Another* [2003] 2 All ER 87, for instance, it was held that Hansard cannot be used to interpret penal statutes. Simon Brown LJ held as follows:

> [18] Let it then be assumed, contrary to my already stated conclusion, that s 34(1)(a) is ambiguous. A further difficult question then arises before
> D even one comes to consider the effect of ministerial statements in Parliament under the *Pepper v Hart* approach. It is Mr Harrison's contention that any ambiguity must inevitably be resolved in the respondents' favour because of the presumption in favour of the strict construction of penal statutes: see *Cross on Statutory Interpretation* (3rd edn, 1995) p 172 and Bennion section 271 (p 637): '**It is a principle of legal**
> E **policy that a person should not be penalised except under clear law**.' (Wording which, as the recent supplement to the third edition of Bennion points out, I adopted in my own judgment in *R v Bristol Magistrates' Court, ex p E* [1998] 3 All ER 798 at 804, [1999] 1 WLR 390 at 397.)
>
> [19] For my part I find this argument convincing. *Neither counsel was able*
> F *to find any case in which the Pepper v Hart approach had been invoked to resolve an ambiguity in a penal statute*. That seems to me unsurprising. If, therefore, I had thought s 34(1)(a) unclear, *I would have construed it as being subject to the ejusdem generis principle*, difficult though I find it to identify any coherent genus within the clause.
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> G [20] Assume, however, that Hansard may be consulted under the *Pepper v Hart* principle even in a criminal context, *the question then arises as to whether the statements of the promoting minister clearly resolve the supposed ambiguity and, if so, in which way, it being each side's contention that these statements favour them*. In this regard I shall hope to be forgiven for not quoting extensively from the series of debates in the House of Lords during which the provision
> H which ultimately became s 14 of the 1930 Act was discussed and in certain respects amended. There were many passages in the various statements made by the promoting minister, the Earl Russell, which attracted extensive submissions from counsel on both sides.
>
> (emphasis added)

I **[37]** In another House of Lords' decision as can be seen in the case of *Regina v. Secretary of State for the Environment, Transport and the Regions, Ex parte Spath Holme Ltd* [2001] 2 WLR 15, Lord Bingham had this to say:

> I think it important that the conditions laid down by the House in *Pepper v Hart* should be strictly insisted upon. Otherwise, the cost and inconvenience feared by Lord Mackay of Clashfern LC, whose objections to relaxation of the exclusionary rule were based on considerations of practice not principle (see p 615 g), will be realised. *The worst of all worlds would be achieved if parties routinely combed through Hansard, and the courts dredged through conflicting statements of parliamentary intention* (see p 631 f), only to conclude that the statutory provision called for no further elucidation or that no clear and unequivocal statement by a responsible minister could be derived from Hansard.

[38] Yet for now, this court is bound by the decision of the Federal Court's case in *Chor Phaik Har v. Farlim Properties Sdn Bhd (supra)*.

Conclusion

[39] Based on all of the above, the applicant's application for bail is hereby dismissed.